

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q65332
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 09/907,908	Filed July 19, 2001
	First Named Inventor Andre MESSAGER	
	Art Unit 2614	Examiner Thjuan Knowlin Addy
	WASHINGTON OFFICE 23373 <small>CUSTOMER NUMBER</small>	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.		
This request is being filed with a notice of appeal		
The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.		
<input checked="" type="checkbox"/> I am an attorney or agent of record. Registration number <u>28,703</u> <u>/DJCushing/</u> <u>Signature</u>		
<u>David J. Cushing</u> <u>Typed or printed name</u>		
<u>(202) 293-7060</u> <u>Telephone number</u>		
<u>December 9, 2009</u> <u>Date</u>		

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q65332

Andre MESSAGER, et al.

Appln. No.: 09/907,908

Group Art Unit: 2614

Confirmation No.: 9943

Examiner: Thjuan Knowlin Addy

Filed: July 19, 2001

For: METHOD OF PROVIDING THE FACILITY FOR SOME COMMUNICATION NETWORK USERS TO HAVE PREFERENTIAL ACCESSS FOR PARTICULAR CALLS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated June 9, 2009, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

The application includes claims 1-9, 11, 12 and 14, with claims 1-8 being allowed. Independent claims 9, 11 and 12 and dependent claim 14 are rejected for anticipation by Chugo et al (USP 5,425,019).

The invention is described in the SUMMARY OF THE CLAIMED SUBJECT MATTER section of the Appeal Brief filed May 15, 2006.

Claim 9 reads as follows:

9. A method of providing preferred access for particular point-to-point calls between users of a network, said network including at least two switching nodes and a plurality of circuit segments connected between said two switching nodes, said method comprising the steps of:

Pre-Appeal Brief Request for Review
USSN 09/907,908

permanently reserving a subset of said circuit segments such that reserved and unreserved segments are provided between said two switching nodes;

according preferred status to a subset of users of said network; and

providing access to said reserved segments only for point-to-point calls involving a user having preferred status and not for calls involving users of said network neither of whom has said preferred status.

Of particular import to the discussion herein is the last subparagraph of the claim which states that the reserved segments are made available only for point-to-point calls involving a user having preferred status, and are not available if neither of the parties to the call has the preferred status.

Claims 11 and 12 each include the same limitation in their last few lines, i.e., that the reserved segments (or “first” segments in claim 11) are only available for calls involving a preferred user.

Chugo (USP 5,425,019) discloses a system wherein normal calls already in progress can be re-routed as necessary to make room for an emergency call that arises. To do this, the system identifies detour circuits to use for the normal call in case an emergency call arises. In the operation of the Chugo system, normal calls exist on normal links, and normal calls also exist on the detour links. When an emergency call arises, it will be routed over a normal link that may already have a call existing on it. To make room for the emergency call, the call currently on the link will have to be rerouted and it is therefore rerouted over a detour link that has been previously identified.

The examiner has attempted to read the claims on Chugo, but this can only be done by ignoring the clear and unambiguous requirement of each independent claim that the reserved segments be only available for preferred user calls. This is in direct contradiction to Chugo where the links that the examiner relies on as the “reserved” links are in fact used by other calls until an emergency call arises.

Pre-Appeal Brief Request for Review
USSN 09/907,908

Chugo shows switching nodes A, B and C, but does not permanently reserve circuit segments between any two of the nodes. In paragraph 7 of the final Office action mailed June 9, 2009, the examiner refers to the claimed “reserved circuits” as the segments for emergent calls. But the whole premise of Chugo is that some non-emergency call is already using the circuit segment(s) needed by the emergency call, and this non-emergency call has to be rerouted. Claim 9 says that the reserved segments are only available for preferred users and not for calls not involving a preferred user. To the contrary, the “reserved” segments in Chugo are used by normal calls, just that the emergency call has a higher priority.

This was pointed out to the examiner in the Request For Reconsideration filed February 17, 2009, and in the final Office action the examiner responds by simply disagreeing and then re-alleging that Chugo teaches permanently reserving circuit segments between nodes. The examiner never addresses the issue of how the circuit segments used in Chugo for emergency calls can satisfy the requirement of claims 9 and 11 that these reserved segments are not available if the call does not involve a preferred user, when in Chugo the “reserved” segments are already being used by normal calls which must be rerouted. Indeed, the entire premise of Chugo is a situation where the “reserved” segment is already in use by a non-emergency call.

For this reason, all of independent claims 9, 11 and 12, and therefore dependent claim 14 as well, clearly distinguish over Chugo, and the rejection of these claims should be reversed.

Respectfully submitted,

/DJCushing/
David J. Cushing
Registration No. 28,703

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: December 9, 2009